HAZ MAT TRANSPORTATION

YEAR 2000 UPDATE

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April 2000

REVIEW OF KEY CONCEPTS

WHAT IS COMMERCE”?

COMMERCE: the term commerce means trade, traffic, or transportation within the jurisdiction of the United States.

GOVERNMENT NOT ENGAGED IN COMMERCE:

(1) The government service or activity benefits the community as a whole and is available to the public at little or no direct expense.

(2) The service or activity is undertaken for the purpose of public service rather than for pecuniary gain.

(3) Government is the principal provider of activity: and

(4) Government is particularly suited to provide the service or perform the activity

(5) The activity is supported through general tax revenues.

GOVERNMENT IS ENGAGED IN COMMERCE

(1) When it engages in activities contrary to the aforementioned circumstances

(2) When government offers material into commerce

TRANSPORTATION IN COMMERCE ON A PUBLIC HIGHWAY

Transportation on (across or along) roads outside of Government properties generally is transportation in commerce. If road is used by members of the general public (including dependents of Government employees) without their having to gain access through a controlled access point, transportation on (across or along) a road on Government controlled properties is in commerce. On the other hand if access to a road is controlled at all times through the use of gates and guards, transportation is not in commerce.

- **Who enforces Transportation law?**

Statutory or Regulatory? DOD 4500.9 TM38-410

No statutory requirement for internal movement BUT DTR requires full compliance with all regulations at all levels of government.

CHAPTER 204

B1 DOD personnel or contractor personnel who fail to comply may be liable to civil and criminal personal liability for violations and any resulting penalties

B4 DOD exemption only used in special circumstances.

B5 even regulated bases require certain levels of compliance

1910.1200(G) and 262.20

Can the DOT fine the DOD?

“Although the Federal Government is exempt from the penalty provisions employees of the Federal Government are not exempt under the HMTA”

Incidents related to DOD (FAA Brief Mar 00)

- In 1998 DOD was the second most frequent shipper to be involved in an incident of declared hazardous materials.
- In 1999 the number of incidents surpassed the entire year of 1998 in August.
- Undeclareds for DOD have mainly been related to parts with fuel and medical substances.

HMIS Information 1998 Incidents

Total incidents reported as undeclared Hazmat 514

Total incidents reported as declared Hazmat 869

Total incidents 1383

63% of the incidents involved properly declared, marked, labeled, and packaged Hazmat

95% of the incidents were shipments offered to all-cargo carriers

5% of the incidents were shipments offered to passenger carriers

Trends Identified

- 514 Undeclared Incidents
- 462 Cargo Carriers
- 52 Passenger Carriers

- 869 Declared Incidents
  859 Cargo Carriers
  10 Passenger Carriers

DOD INCIDENTS

- Incidents originating from DOD shippers have steadily increased over 1998 and 1999.
- Developed specific contacts for each branch of service.
- A notification process was developed
- A centralized contact for DOD
- A centralized contact in the FAA
- Corrective action will be provided to the FAA
- Participation in DOD training

Package Failures

- Plastic/4G
- Plastic/Fiberboard
- Glass/Fiberboard
- Metal/4G
- Metal/Fiberboard
- 1A1

In Progress

- Lithium Batteries
- Batteries in devices
- Torches
- Packaging Analysis
- Outreach determined by trends
- More shipper inspections

FAA Web-Sites

- HTTP://CAS.FAA.GOV/CAS/DGP.HTM
- HTTP://WWW.FAA.GOV/APA/PR/INDEX.CFM
- DG Brochures/DGABs
- DG Information
- All FAA Civil Penalties over $50,000

Office of Hazardous Materials Enforcement

Research and Special Programs Administration

U.S. Department of Transportation

WHAT WE LOOK FOR

- HAZARD COMMUNICATION
- PACKAGE SELECTION AND COMPLETION
- TRAINING

HAZARD COMMUNICATION

- SHIPPING PAPERS
- MARKING
- LABELING
- EMERGENCY RESPONSE INFORMATION

HAZMAT TRAINING

- COMPLETE TRAINING
- TESTING
- CERTIFICATION
- RECORDS